

REMARKS

In response to the Office Action dated 1 August 2005, Applicant offers this Amendment and Remarks. Reconsideration and reevaluation of the application as amended is respectfully submitted.

5 At page 2 of the Office Action, the Examiner rejected claims 1, 2, 9, 17, 19, and 23 under 35 U.S.C. § 102(b) as being anticipated by Worthington (U.S. 1,693,101). Additionally, the Examiner rejected claims 3 through 6, 10 through 14, 18, 20, 24, and 25 under 35 U.S.C. § 103(a) as being unpatentable over Worthington in view of Sudol (U.S. 5,033,545). Additionally, at page 6 of the Office Action, the Examiner rejected claims 7, 8, 15, 16, 21, and 22 under 35 U.S.C. § 103(a) as
10 being unpatentable over Worthington in view of Sudol as applied to claims 1, 3, 10, and 20, and further in view of Montgomery et al (U.S. 5,435,628).

 With respect to the Worthington reference, Worthington teaches a reduced opening 56 in which the ball valve 57 seats, by gravity; the ball valve 57 in diameter being greater than the diameter of the opening 56. Worthington goes on to note that the seat ring 55 is provided with an
15 upper lead diverging tapering surface 58, sloping upwardly from the opening 56 towards the passageway surfaces of the pipe B, normally free of the contact by the ball valve 57 when the latter is seated. (See '101, page 2, lines 123 through 131.)

 Applicant respectfully submits that the claims are now directed to an apparatus and method having an unobstructed circular cross-sectional flow area. As noted above, Worthington teaches
20 away from having an unobstructed circular flow area wherein this flow area can be used as a suction tube to let fluid and solids through the device and to the surface. Moreover, due to the drawdown effect that Applicant's invention creates, Applicant teaches producing natural gas to surface facilities through the wellbore annulus, which is not disclosed nor taught by Worthington. In fact, Applicant respectfully submits that Worthington teaches away from production of natural gas through the
25 wellbore annulus (see Fig. 1 of Worthington which clearly shows that production is through the innermost tubular).

With reference to Sudol, Applicant notes that Fig. 1 of Sudol shows that the injected power fluids exits the suction tube. In other words, the injected power fluid does not exit through an annular passage. In the present invention, the annular passage is formed relative to the inner portion of the second tubing member in the outer portion of the suction tube.

5 With reference to the independent method claim 17, Applicant notes that Sudol does not teach lowering a second tubular member concentrically about an outer portion of the suction tube. In this lowering of the second tubular member concentrically, an annular passage is formed in the present invention. Applicant respectfully submits that Sudol teaches specifically away from having this concentric arrangement about a suction tube, thereby forming an annular passage. Applicant
10 further notes that Sudol does not teach increasing the velocity of the medium within the annular passage.

Additionally, Applicant notes that Sudol simply teaches the use of a jet pump, wherein the power fluid is injected down a micro annulus through a plurality of jets. In Applicant's present invention, Applicant forms an annular passage by having a second tubing member concentrically
15 placed about the suction tube, wherein the micro annulus 40 delivers the power fluid to the annular passage 44 (please see Figs. 3 and 4). Applicant further points out that Sudol makes no reference to drawing down the fluid level within the wellbore annulus to a predetermined level, and thereafter the ability to produce through the wellbore annulus with the device as claimed. In summary, with reference to the Sudol rejections, Sudol does not teach concentric tubular member forming an
20 annular passage for the power fluid. Additionally, the injected fluid of Sudol exits the suction tube. Applicant respectfully submits that the reference actually teaches away from Applicant's invention since the forming of an annular passage without the suction tube is not possible.

Applicant notes that independent claims 1, 11, and 14 have been amended. Applicant respectfully submits that with reference to the obvious rejections under 35 U.S.C. § 103(a), there
25 must be a basis in the art for combining or modifying references. As set out in the MPEP § 2143.01, the mere fact that references can be combined or modified does not render the resultant

combination obvious unless the prior art also suggest the desirability of the combination. Most, if not all inventions arise from a combination of old elements.

Thus every element of the claimed invention may often be found in the prior art. However, identification in the prior art of each individual part claimed is insufficient to defeat patentability of the whole claimed invention. Rather, to establish obviousness based on a combination of the elements disclosed in the prior art, there must be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by the applicant. (see In Re Kotzab, 217 F.3d 1365, 55 USPQ 2d 1313 (Fed. Cir. 2000).

With reference to the objection to the drawings, Applicant includes a "Replacement Sheet" of Fig. 4 showing "56" pointing to the first chamfered surface. The Examiner is kindly requested to indicate her acceptance of this Fig. 4.

In conclusion, Applicant respectfully submits that the remaining claims, namely claims 1 through 18, 20 through 23, and 25 are now in position for allowance. Additionally, claims 19 and 24 have been canceled without prejudice nor disclaimer to the subject matter contained therein. If the Examiner has any questions, the Examiner is kindly requested to contact the undersigned. Allowance at an early date is respectfully submitted.

Respectfully submitted,

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